

CHAPTER 5 CLOSING-OUT AND FIRE SALES

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500 GENERAL PROVISIONS

- 500.1 The provisions of this chapter were issued in Commissioners' Order No. 59-1927 under authority of §9 of Public Law 86-219 (73 *Stat.* 449; Sept. 1, 1959; D.C. Code §47-2101 *et seq.* (1981)) which is referred to in this chapter as the "Act."
- 500.2 The provisions of this chapter shall apply to any person who holds, advertises, conducts, or carries-on any closing-out or fire sale subject to the provisions of the Act.
- 500.3 The Director of the Department of Consumer and Regulatory Affairs or designee (also referred to in this chapter as the "Director") shall administer and enforce the provisions of the Act and this chapter, and shall prescribe the administrative procedures necessary for administration.
- 500.4 The Director shall prescribe and provide the forms necessary for the administration of the Act and this chapter.

AUTHORITY: Unless otherwise noted, the authority for this chapter is An Act approved September 1, 1959, P.L. 86-219 (73 *Stat.* 449; D.C. Code §47-2101 *et seq.* (1981)).

SOURCE: Sections 2(a) and 3 of Regulations Governing Closing-out and Fire Sales in the District of Columbia, Commissioners' Order 59-1927, effective October 31, 1959, 6 DCR 118; 5W DCRR §§1.2(a) and 1.3.

501 LIMITATIONS ON FIRE SALES

- 501.1 The goods, wares, or merchandise to be offered for sale at a fire sale shall be only those goods, wares, or merchandise that were actually present in the premises at the time of the occurrence of the fire forming the basis for such fire sale.
- 501.2 The goods, wares, or merchandise offered for sale in a fire sale shall be limited to those items which are demonstrably lessened in value as a result of having been

in the premises at the time of the occurrence of the fire forming the basis for the sale.

501.3 Goods, wares, or merchandise shall be considered as being lessened in value within the meaning of this section if they or the packages containing them, show any sign of having been in premises in which the fire occurred, including but not limited to, visible damage by fire, water, or smoke, or noticeable odor (no matter how slight) indicating that the goods, wares, or merchandise have been in, or in proximity to, the fire.

501.4 Wherever the value of any component part of a set or suite is lessened as described in §501.3, the whole set or suite shall be considered so affected.

SOURCE: Section 5 of Regulations Governing Closing-out and Fire Sales in the District of Columbia, Commissioners' Order 59-1927, effective October 31, 1959, 6 DCR 118; 5W DCRR §1.5.

502 ELIGIBILITY FOR CLOSING-OUT SALE LICENSE

502.1 No license to conduct a closing-out sale shall be issued to any applicant for a license unless the Director is satisfied that the applicant has been in business at the specific location where the sale is to be conducted for at least four (4) months prior to the date of application.

502.2 The Director shall also be satisfied that within the four-month period required under this section there has been no substantial change in the ownership of the business, either by way of transfer or assignment of title to the business, or by way of a transfer of control of the business.

SOURCE: Section 4 of Regulations Governing Closing-out and Fire Sales in the District of Columbia, Commissioners' Order 59-1927, effective October 31, 1959, 6 DCR 118; 5W DCRR §1.4.

503 APPLICATION FOR LICENSE

503.1 At least fourteen (14) days prior to the date on which the proposed sale is to begin, application for a license to conduct a closing-out or fire sale shall be filed with the Director, on a form prescribed and furnished by the Director.

503.2 The application shall provide the following information:

- (a) The name and address of the applicant;
- (b) If the applicant is a partnership or association, the names and addresses of all partners or members;
- (c) If the applicant be a corporation, the place of incorporation, and the names and addresses of all of the officers and directors of the applicant;
- (d) The exact address of the place at which the proposed sale is to be conducted. In the case of a closing-out sale, the length of time the applicant has been engaged in business at that location;

- (e) A complete inventory (in triplicate) of the goods, wares, or merchandise to be offered for sale, describing those goods, wares, or merchandise in reasonable detail, and indicating their exact location and approximate retail value;
- (f) A statement that the applicant is the owner of the goods, wares, or merchandise to be sold, or is otherwise entitled to dispose of the same, and is the owner of the business in connection with which the sale is being conducted;
- (g) The date on which it is proposed to begin the sale;
- (h) A description of the reasons for and the character of the sale, and the manner in which the sale is to be conducted; and
- (i) The means to be employed in advertising the sale, together with the proposed content of the advertisements to be used to advertise the sale.

503.3 In the case of a closing-out sale, the application shall include a statement whether the applicant, or any person on the applicant's behalf or for the applicant's account has, within sixty (60) days prior to the filing of the application, ordered, purchased, brought in, received, or otherwise acquired any goods, wares, or merchandise which are to be offered for sale at the proposed sale.

503.4 If advertising involves the use of printed advertisements of continuity for a radio or television commercial broadcast, the applicant shall include with the application a copy of each printed advertisement or continuity script which is proposed to be used in connection with the advertising of the sale to the extent that the advertisement or continuity is available prior to the issuance of the license to conduct the sale.

SOURCE: Section 6 of Regulations Governing Closing-out and Fire Sales in the District of Columbia, Commissioners' Order 59-1927, effective October 31, 1959, 6 DCR 118; as amended by Commissioners' Order 60-2125, adopted October 6, 1960, 7 DCR 76; 5W DCRR §1.6.

504 EDITING OF ADVERTISING MATERIALS

504.1 The Director shall, prior to issuing any license to conduct a fire sale or closing-out sale, edit each printed advertisement or continuity for a radio or television commercial broadcast which is proposed to be used in connection with the sale, for the purpose of ensuring that the printed advertisement of continuity conforms to the requirements of the Act and this chapter.

504.2 If the Director determines that any printed advertisement or continuity does not conform to the requirements of the Act and this chapter, the Director shall make such changes in the copy as will, in the Director's opinion, bring the printed advertisement or continuity into conformity with the requirements. The Director shall thereafter take such action as may be necessary to ensure that only the edited advertising, and no other, is used in connections with advertising the sale.

SOURCE: Section 7(b) of Regulations Governing Closing-out and Fire Sales in the District of Columbia, Commissioners' Order 59-1927, effective October 31, 1959, 6 DCR 118; as amended by Commissioners' Order 60-2125, adopted October 6, 1960, 7 DCR 76; 5W DCRR §1.7(a).

505 ISSUANCE OF THE LICENSE

505.1 If the Director shall be satisfied that the proposed sale to be conducted by the applicant will actually be a closing-out or fire sale, the Director shall issue a license to the applicant, upon the payment of the prescribed fee and the furnishing of the prescribed bond, unless the licensee be except from paying the fee and furnishing the bond.

505.2 No license to conduct a closing-out or fire sale shall be valid for more than thirty (30) calendar days from the date of issuance, except that the Director may, in cases of hardship, need, or such other good cause as may appear satisfactory to the Director, extend the term of the license for one (1) additional period of not more than thirty (30) calendar days.

SOURCE: Sections 7 and 8 of Regulations Governing Closing-out and Fire Sales in the District of Columbia, Commissioners' Order 59-1927, effective October 31, 1959, 6 DCR 118; 5W DCRR §§1.7(a) and 1.8.

506 LICENSE LIMITATIONS AND DUTIES OF LICENSEE

506.1 The license shall authorize the licensee to conduct only the type of sale described on the face of the license, and the goods, wares, or merchandise to be offered during the sale shall be only those described in the inventory submitted with the application.

506.2 Each person licensed to conduct a closing-out sale or fire sale shall comply with the requirements and prohibitions set forth in this section.

506.3 A licensee shall not employ any untrue, deceptive or misleading advertising in connection with the sale.

506.4 A licensee shall declare in the advertising of the sale the total retail value of the goods, wares, or merchandise being offered for sale at the closing-out or fire sale at the time that advertising appears or is broadcast.

506.5 The licensee shall submit to the Director for review and approval any advertising material proposed to be used in connection with the sale which was not submitted at the time of making application for the license in accordance with §503.

506.6 The licensee shall use in advertising the sale only that advertising material approved by the Director as being in conformity with the requirements of the Act and this chapter.

506.7 The licensee shall conduct the sale in strict conformity with all the representations made in any advertising used in connection with the sale.

506.8 The licensee shall keep available at the place of sale a true copy of the inventory submitted with the application for license, and make that true copy available to inspecting officials upon request.

506.9 The licensee shall keep any other goods separate and apart from the damaged goods, wares, or merchandise listed in the inventory submitted with the application for license as being objects of a fire sale, and make shall make the distinction clear to the public by placing tags on all inventoried items in and about the place of sale apprising the public of the status of those goods, wares, or merchandise.

SOURCE: Sections 7 and 9 of Regulations Governing Closing-out and Fire Sales in the District of Columbia, Commissioners' Order 59-1927, effective October 31, 1959, 6 DCR 118; 5W DCRR §§1.7(a) and 1.9.

507 ACCESS TO PREMISES FOR INSPECTION

507.1 Prior to the issuance of a license and during the conduct of the sale for which a license is issued, the Director shall be permitted access to the premises on which the goods, wares, or merchandise are stored, or on which the sale for which a license has been issued is being conducted.

507.2 Access shall be for the purpose of verifying the details of the inventory files in connection with an application for license, or for purpose of ascertaining that the sale is being conducted in accordance with the Act and this chapter.

507.3 Each licensee shall on demand furnish to the Director any information relating to the licensee's stock on hand, and any other information relating to the sale, that the Director may request, either prior to the issuance of the license applied for or in connection with the enforcement of the Act and the provisions of this chapter.

SOURCE: Section 10 of Regulations Governing Closing-out and Fire Sales in the District of Columbia, Commissioners' Order 59-1927, effective October 31, 1959, 6 DCR 118; 5W DCRR §1.10.

508 DENIAL, SUSPENSION, OR REVOCATION OF LICENSE

508.1 In addition to any other penalty prescribed by law, any violation of the Act or of this chapter, either before or after conviction therefor, shall be grounds for the suspension or revocation of any license issued under this chapter.

508.2 The decision of the Director with respect to the denial, suspension, or revocation of a license shall be final.

SOURCE: Sections 11 and 12 of Regulations Governing Closing-out and Fire Sales in the District of Columbia, Commissioners' Order 59-1927, effective October 31, 1959, 6 DCR 118; 5W DCRR §§1.11 and 1.12.

599 DEFINITIONS

599.1 When used in this chapter, the following terms and phrases shall have the meanings ascribed:

Advertise - the use of any method to bring a closing-out or fire sale to the attention of the public, including without limitation any advertising or notice appearing in any newspaper, magazine, or other publication, or in any handbill, poster, bill, circular, pamphlet, letter, sign, placard, card display, label, or telegram; or broadcast as a part of any radio or television program.

Closing-out sale - as defined in D.C. Code §47-2101 (1981), any sale in connection with which any representation by the person conducting the sale that the sale is being conducted, or is required or compelled to be conducted, for reasons of economic or business distress, inability to continue business at the same location, or the age or health of the owner or owners of the business. The term "closing out sale" shall include but not be limited to, all sales advertised, represented, or held forth under the designation of "going out of business," "discontinuance of business," "selling out," "liquidation," "lost our lease," "must vacate," "forced out," "removal," or any other designation of like meaning.

Fire sale - a sale of goods, wares, or merchandise damaged by fire, smoke, water, or otherwise.

License - a license issued by the government of the District of Columbia authorizing the person named on the license to conduct a closing-out or fire sale in the District of Columbia.

Sale - when not qualified by "closing-out" or "fire," means both "closing-out sale" and "fire sale."

SOURCE: Section 1 of Regulations Governing Closing-out and Fire Sales in the District of Columbia, Commissioners' Order 59-1927, effective October 31, 1959, 6 DCR 118; 5W DCRR §1.1.